

401 KAR 47:120. Conditions applicable to all solid waste permits.

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.70, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to adopt rules and administrative regulations for the management, processing or disposal of wastes. KRS 224.40-305 requires that persons engaging in the management, processing and disposal of waste obtain a permit. This chapter establishes the permitting standards for solid waste sites or facilities, the standards applicable to all solid waste sites or facilities, and the standards for certification of operators. An overview of the permit program is found in Section 1 of 401 KAR 47:080. This administrative regulation sets forth the conditions applicable to all permits.

Section 1. Conditions Applicable to All Permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference.

(1) Duty to comply. The owner or operator shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the appropriate Kentucky revised statute and is grounds for enforcement action which may result in revocation, modification or denial of a permit renewal application.

(2) Duty to reapply. If the owner or operator wishes to continue an activity regulated by the permit after the expiration date of the permit, the owner or operator shall apply for and obtain a new permit.

(3) Duty to halt or reduce activity. It shall not be a defense for an owner or operator in an enforcement action to claim necessity to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit. The owner or operator shall comply with 401 KAR Chapters 47 and 48 before commencing operations.

(4) Duty to mitigate. In the event of noncompliance with the permit, the owner or operator shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health and the environment.

(5) Proper operation and maintenance. The owner or operator shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the owner or operator to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and process controls, including appropriate quality assurance procedures.

(6) Permit actions. The permit may be modified or revoked for cause. The filing of a request by the owner or operator for a permit modification, revocation, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) Property rights. The permit does not convey any property rights or any exclusive privilege.

(8) Duty to provide information. The owner or operator shall furnish the cabinet any information which the cabinet shall reasonably require to determine whether cause exists for modifying, revoking, or terminating the permit, or to determine compliance with the permit or any provision of KRS Chapter 224 or 401 KAR Chapters 47 and 48. The owner or operator shall also furnish to the cabinet upon request copies of records required to be kept by the permit.

(9) Inspection and entry. The owner or operator shall allow the cabinet or its authorized representative to:

(a) Enter upon the owner's or operator's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of the permit;

(b) Have access to and copy at reasonable times any records that shall be kept under the conditions of the permit;

(c) Inspect any facility's equipment including monitoring and control equipment, practices, or op-

erations regulated or required under the permit; and

(d) Sample or monitor, for the purposes of assuring permit compliance or determining compliance with any provision of KRS Chapter 224 or 401 KAR Chapters 47 and 48, any substances or parameters at any location.

(10) Signatory requirement. All applications, reports, or information submitted to the cabinet shall be signed and certified in accordance with 401 KAR 47:160, Section 6.

(11) Authorization to operate. For a new solid waste site or facility, the owner or operator shall not commence storage, treatment or disposal of solid waste; and for a facility undergoing a major modification as stated in 401 KAR 47:130 the owner or operator shall not commence storage, treatment or disposal of solid waste in the modified portion of the facility until:

(a) The owner or operator has submitted to the cabinet, by certified mail or hand delivery, a letter signed by the owner or operator and a professional engineer registered in Kentucky stating that the facility has been constructed or modified in compliance with the permit; and

(b) The cabinet has inspected the modified or newly constructed facility, issued any public notice required in 401 KAR 47:140, and issued a solid waste permit or permit modification.

(12) Transfers. The permit is not transferable to any person without the prior written approval of the cabinet. Any person seeking a transfer of a permit shall file a transfer application on the forms prescribed by the cabinet. Upon review and approval of the transfer application, the cabinet shall re-issue the permit to reflect the new ownership.

(13) Monitoring reports. Monitoring results shall be reported at the intervals specified in the approved application.

(14) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, requirements contained in any compliance schedule of the permit shall be submitted no later than fourteen (14) days following each scheduled date.

(15) Annual and quarterly reports. An annual or quarterly report shall be submitted covering facility activities during the specified reporting period as required in the permit.

(16) Other information. Where the owner or operator fails to submit the required information in a permit application, or submits incorrect information in a permit application or in any report to the cabinet, he shall promptly submit such facts or correct information.

Section 2. Establishing Permit Conditions. In addition to conditions required for all permits in Section 1 of this administrative regulation, the cabinet shall establish conditions on a case-by-case basis in permits under 401 KAR 47:100, 401 KAR 47:110, and 401 KAR 47:130. The cabinet may incorporate applicable requirements of the Kentucky solid waste management administrative regulations directly into the permit. Each permit issued under KRS 224.40-100 and 224.40-305 shall contain terms and conditions as the cabinet determines necessary to protect human health and the environment. (16 Ky.R. 1739; Am. 2186; eff. 5-8-90.)